

2015 TRAFFICKING IN PERSONS REPORT FOR KUWAIT

2015 TIP Report for Kuwait - TIER 3

Kuwait is a destination country for men and women subjected to forced labor and, to a lesser degree, forced prostitution. Men and women migrate from South and Southeast Asia, Egypt, the Middle East, and increasingly throughout Africa to work in Kuwait, mainly in the domestic service, construction, and sanitation sectors. While Filipino, Indian, and Sri Lankan women continue to represent a significant percentage of Kuwait's domestic worker population, in the last few years, there has been a reported increase in migrants from Ethiopia, Uganda, and Madagascar. Though most migrants enter Kuwait voluntarily, upon arrival some sponsors subject migrants to forced labor, including through nonpayment of wages, long working hours without rest, deprivation of food, threats, physical or sexual abuse, and restrictions on movement, such as confinement to the workplace and the withholding of passports. Many of the migrant workers arriving in Kuwait have paid exorbitant fees to labor recruiters in their home countries or are coerced into paying labor broker fees in Kuwait which, according to Kuwaiti law, should be paid by the employer—a practice making workers highly vulnerable to forced labor, including debt bondage. Some labor recruiting companies have been complicit in trafficking with their use of deceptive recruiting techniques to bring in migrant workers on the basis of unenforceable contracts and nonexistent positions, while promising employers workers who are well-trained but turn out to be unskilled. Kuwait's sponsorship law, which ties a migrant worker's legal residence and valid immigration status to an employer, restricts workers' movements and penalizes them for "running away" from abusive workplaces; as a result, domestic workers are particularly vulnerable to forced labor inside private homes. While Kuwait requires employers to use a standard contract for domestic workers delineating some basic rights, Kuwait lacks a domestic labor law to govern the relationship between domestic workers and sponsors. Thus, many workers report experiencing work conditions substantially different from those described in the contract; some workers never see the contract at all and others receive Arabic- or English-language contracts that they are unable to read. In addition, sources report runaway domestic workers are sometimes exploited in forced prostitution by agents or criminals who manipulate their illegal status.

The Government of Kuwait does not fully comply with the minimum standards for the elimination of trafficking and is not making sufficient efforts to do so. The government increased its capacity to protect trafficking victims in 2014 through the official opening of its high-capacity shelter and amendment of its shelter regulations, which now allow any woman access to the shelter without formal referral. The government continued its efforts to prevent trafficking during the reporting period by conducting investigations into visa fraud rings, including those allegedly involving government officials, leading to the closure of hundreds of labor recruitment firms and hundreds of people referred for prosecution. However, of the hundreds of visa fraud violators referred for prosecution, only one case has been investigated under the 2013 counter-trafficking law and the government has yet to prosecute or convict suspected traffickers. Existing laws do not provide adequate prosecutorial power or punishments for those operating labor recruiting firms. The government did not report adequate efforts to prosecute or convict suspected traffickers. The government did not implement formal procedures to identify or refer

trafficking victims, and victims of trafficking continued to be arrested, detained, and deported. Emerging efforts to issue exit and travel documents to abused workers whose passports had been confiscated were not accompanied by any enforcement activities against the employers from whom the workers had fled.

RECOMMENDATIONS FOR KUWAIT:

Enforce laws against sponsors and employers who illegally hold migrant workers' passports; implement the 2013 anti-trafficking law by investigating and prosecuting trafficking offenses and convicting and punishing offenders, particularly sponsors who subject domestic workers to involuntary servitude; greatly increase law enforcement efforts, including investigations of trafficking offenses perpetrated by Kuwaiti citizens, and establish standard operating procedures for investigations and prosecutions of trafficking crimes; coordinate with the public prosecutor's office to amend current laws to allow for the prosecution of labor recruiting firms; establish procedures to proactively identify and refer to protection services all victims of human trafficking, especially among the female domestic worker population; establish linkages between emerging victim care efforts and law enforcement activities; continue to train shelter staff in providing services to potential trafficking victims; ensure the availability of shelter and services to male victims, sex trafficking victims, and forced labor victims outside of the domestic worker context; amend the sponsorship law to protect foreign workers, including domestic workers, from abuse; increase effective coordination between ministries through the inter-ministerial anti-trafficking committee; and continue to increase efforts to prevent trafficking.

PROSECUTION

The government made weak anti-trafficking law enforcement efforts. The government enacted anti-trafficking legislation in March 2013, which prohibits all forms of trafficking. The law prescribes penalties ranging from 15 years' to life imprisonment, which are sufficiently stringent and commensurate with penalties prescribed for other serious crimes, such as rape. During the reporting period, the government did not report any prosecutions, convictions, or sentences of trafficking offenders for either forced labor or sex trafficking. While it investigated visa fraud rings, allegedly involving complicit officials, including in the Ministries of Interior (MOI), Social Affairs and Labor (MOSAL), and Commerce and Industry, as well as members of the ruling Al-Sabah family, the government failed to prosecute and convict officials complicit in these trafficking or trafficking-related offenses. Although the withholding of workers' passports is prohibited under Kuwaiti law, this practice remains common among sponsors and employers of foreign workers, and the government demonstrated no efforts to enforce this prohibition. It remained uncommon to find domestic workers who took refuge in their home-country embassy shelters with their passports in their possession. The government remained reluctant to prosecute Kuwaiti citizens for trafficking offenses. Kuwaiti law enforcement treated cases of forced domestic labor as administrative infractions, and punishment was limited to assessing fines, shutting down employment firms, issuing orders for employers to return withheld passports, or requiring employers to pay back-wages. In 2014, the MOI, in partnership with an international organization, held an anti-trafficking training. The judicial institute continued its mandatory human trafficking course for all newly-hired judicial officials, including prosecutors and judges.

PROTECTION

The government made some progress to protect victims of trafficking by officially opening its large-capacity shelter for runaway domestic workers in December 2014. Nonetheless, the government failed to develop and implement formal procedures to proactively identify trafficking victims among vulnerable populations, such as foreign migrants, domestic workers, and women in prostitution. The government did not develop or implement a referral mechanism to provide adequate protection services to victims. While Article 12 of the anti-trafficking law stipulates public prosecutors may refer a trafficking victim to an appropriate care facility during an ongoing trial until the time of repatriation, there was no indication this occurred in practice during the reporting period. The 2013 anti-trafficking legislation did not stipulate providing protection from prosecution for victims who fled abusive employers. Workers who left their employer's residence without permission risked criminal penalties and arrest, detention, and deportation, even if they were fleeing from an abusive sponsor. The threat of these consequences discouraged workers from appealing to police or other government authorities for protection and from obtaining adequate legal redress for their exploitation. Embassy contacts reported that some personally motivated police officials helped to ensure trafficking victims were not subjected to unwarranted incarceration. Trafficking victims rarely filed cases against their employers, yet some victims who alleged nonpayment of wages received a monetary settlement for wages owed from their employers. The government reported public prosecutors sometimes tried cases on victims' behalf if they were unable to afford legal counsel while pursuing cases against their employer or sponsor.

In December 2014, the government officially opened its high-capacity shelter for runaway domestic workers only with 1,970 women receiving services and assistance at the shelter; an unknown number of the women were forced labor victims. It is unclear how many of these women endured trafficking abuses. The fully operational 700-bed facility served as a one-stop facility, providing medical and psychological care, assistance with repatriation, as well as access to officials from various ministries involved in filing cases against employers. Victims were not able to leave the facility unescorted. While the government previously required women to receive referrals from foreign embassies or international organizations before being granted access to the shelter, it amended this regulation in December 2014 to allow women access to the shelter without a referral. There continued to be no shelter or other protective services afforded for male trafficking victims. Domestic workers from the Philippines, India, Sri Lanka, Ethiopia, and other countries continued to seek assistance at their embassies; some source-country embassies reported providing shelter to at least 200 domestic workers who ran away from their employers. To assist embassies in repatriating trafficking victims, the government directly funded and coordinated with recruitment agencies to purchase airline tickets. MOSAL and the newly established Public Authority for Manpower paid approximately 100,000 Kuwaiti dinars (KD) (\$350,000) to repatriate expat workers over the past two years. The MOI also repatriated expatriate workers, but it sought a refund of travel costs from the employers who sponsored the workers. The government also provided an annual operating budget of 600,000 KD (\$2,040,000) for the new shelter. The government did not offer foreign trafficking victims legal alternatives to their removal to countries in which they may face hardship or retribution.

PREVENTION

The government sustained minimum efforts to prevent human trafficking. The government did not have a national body or a designated official responsible for coordinating anti-trafficking efforts between ministries. Nonetheless, the government conducted awareness campaigns at Kuwait International Airport aimed at educating newly-arriving domestic workers about the services offered at the domestic workers' shelter. The government's investigation of visa fraud rings led to the closure of hundreds of labor recruitment firms and resulted in the referral of hundreds of suspects for prosecution; however, it did not indicate the alleged violations included trafficking crimes. Most of the referred offenders would only be investigated and prosecuted under the penal code with inadequate sentences in the form of fines; of the several hundred people referred for prosecution, only the executives of four companies were investigated under the anti-trafficking law. Nonetheless, the government did not report on prosecution of these individuals. The Public Authority for Manpower was established during the reporting period, but it lacked adequate numbers of labor inspectors and did not cover domestic workers. The government did not report efforts to reduce the demand for commercial sex acts and forced labor. The government provided anti-trafficking training or guidance for its diplomatic personnel.